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GROUP 1600

STATUS OF THE CLAIMS

Claims 1-32 were pending.

Claims 12-15 and 28-31 have been cancelled as directed to non-elected matter, subject to Applicants' right to refile such matter in a divisional application.

Claims 1-11, 16-27 and 32 have been subjected to an election requirement under PCT Rule 13.1.

Claims 1-11, 16-27 and 32 are presented for reconsideration.

REMARKS

Claims 1-32 were restricted under 35 U.S.C. § 121 and 372. Group I (claims 1-11, 16-27 and 32) was elected with traverse. The restriction is now held proper and final. Thus, subject to Applicants' right to refile the non-elected matter in a divisional application, claims 12-15 and 28-31 are cancelled.

Claims 1-11, 16-27 and 32 have been subjected to an election requirement under PCT Rule 13.1 among the following Groups:

Group I, claims 1-2, 4-8, 11, 16-27 and 32 drawn to nucleic acids encoding the SBE enzyme of SEQ ID NO 29;

Group II, claims 1, 3-8, 11, 16-27 and 32 drawn to nucleic acids encoding the SBE enzyme of SEQ ID NO 31;

Group III, claims 6-9, 16-27 and 32 drawn to drawn to nucleic acids encoding the SBE enzyme of SEQ ID NO 34;

Group IV, claims 6-10, 16-27 and 32 drawn to nucleic acids encoding the SBE enzyme of SEQ ID NO 36;

Applicants provisionally elect Group I with traverse.

The Examiner states that the inventions are not so linked as to form a single general inventive concept as they use different nucleic acids to encode different proteins. He continues that the only shared technical feature is the method of using SBE genes to alter a plant cell which is not special as it is allegedly taught by Cooke (WO 95/26407).

Applicants respectfully disagree with the Examiner's analysis. The present application shares the technical feature of using an effective portion of the nucleic acid sequence encoding a polypeptide having SBE II activity for altering cassava plants. In contrast, Cooke discloses altering potato plants by using SBE I. Therefore,

the present application has a *unique* and shared technical feature over the prior art and the requirement of unity is met.

In view of the foregoing, Applicant respectfully requests that the election requirement be withdrawn and claims 1-11, 16-27 and 32 be examined on the merits.

Respectfully submitted,



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